

1 teachers who teach on the weekends. That enabled me
2 to say that this particular program addressed the
3 local needs.

4 Q. I understand the distinction. Now, let's
5 go back to Page 12 and the program on March 1, 1991.
6 I need to broaden my question.

7 You would agree, would you not, that the
8 matters discussed there relate to education in Dade
9 County and are properly categorized as matters
10 dealing with education or schools?

11 A. Mr. Mullin, can you give me the page
12 number?

13 Q. Page 12. We're talking about schools
14 there, aren't we?

15 A. Uh-huh. Well, I guess I see a distinction
16 between ministering and literacy programs.

17 Q. Would you think the matters discussed on
18 that program are matters worth discussing?

19 A. Well, the matters that appear to be
20 discussed in the summary on Page 12 is his ministry
21 with inner-city schools and the spirit of apathy and
22 lack of self esteem and drugs within the youth within
23 the schools.

24 I assume he's talking about public schools,
25 is that correct?

1 Q. I don't know. All I know is what is
2 written here.

3 Do you have an opinion as to whether a
4 discussion of the use of rap music to communicate to
5 youth is a worthwhile matter to be discussed on
6 television?

7 A. The use of rap music to --

8 Q. To communicate a positive message to youth,
9 does that strike you as something worthwhile?

10 A. I think the use of rap music in
11 communication is a commonly used strategy. It's not
12 clear to me what then this particular summary - this
13 particular program on Page 12 was really discussing.

14 It talked about -- My assumption based on
15 this of what they were discussing were the problems
16 of inner-city schools.

17 Q. Would you look at Page 29 of the exhibit,
18 the exhibit being Trinity Exhibit 23, the second full
19 paragraph, the program broadcast on July 9, 1990.

20 I ask you to rise above the use of the word
21 podiatric when pediatric is what was meant and
22 familiarize yourself with that, if you would.

23 Does that address an educational topic, the
24 use of music?

25 A. Yes, it does in my opinion.

1 Q. Look at Page 31, the program description at
2 the top of the page broadcast on November 16, 1990.
3 Would you just look over that?

4 A. Yes, sir.

5 Q. Do you know Clay Foster?

6 A. No, I do not.

7 Q. You would agree, would you not, that the
8 program described there addressed a local educational
9 need?

10 A. Yes, I would.

11 Q. Look, if you would, at the indication of
12 the duration of that program, an hour 59 minutes and
13 49 seconds, which I'm going to translate as two
14 hours.

15 Do you know of any other commercial station
16 in Miami or Fort Lauderdale that has ever devoted two
17 hours to a discussion of a matter of this sort?

18 A. Could you be more specific by a matter of
19 this sort?

20 Q. Do you know of any other program in Miami
21 or Fort Lauderdale that's ever devoted two hours to
22 discussing the "Listen to Children" program of the
23 Community Participation Department of the Dade County
24 public school?

25 A. This particular program, no, I do not.

1 Q. Do you know of any other commercial
2 station - when I say commercial, I'm excluding
3 Channel 17 and I'm excluding Channel 2.

4 A. Oh, okay.

5 Q. Do you know of any other commercial station
6 that's ever devoted two hours to discussing
7 educational issues of any kind specific to Dade
8 County?

9 A. At one -- In one program?

10 Q. Yes, in one program.

11 A. In one program, off the top of my head, no,
12 but I am not comfortable in saying that there has not
13 ever been and I think if I could research that, I
14 could find the answer to that.

15 Q. Would you look at Page 45 of the exhibit,
16 the program description beginning at the bottom of
17 the page and carrying over to Page 46, broadcast on
18 May the 6th, 1988.

19 A. Yes, sir.

20 Q. That's another two hour program. Would you
21 agree that that addresses a local educational need in
22 discussing magnet schools?

23 A. Yes, sir, I would.

24 Q. Do you know Diane Carr?

25 A. No, I do not.

1 Q. Would you look at Paragraph 6 of your
2 Declaration. You refer there to Miami-Dade Community
3 College.

4 A. Yes, sir.

5 Q. Is Miami-Dade Community College referred
6 to, to your knowledge, in the programming of other
7 stations in the Miami or Fort Lauderdale area?

8 A. Yes, sir.

9 Q. Let's focus on the particular time period
10 at issue here which is calendar years 1987 through
11 1991. Miami-Dade Community College did not go
12 uncovered on Miami or Fort Lauderdale television, is
13 that correct?

14 A. I don't know about Fort Lauderdale.

15 Q. Let's stick to Miami.

16 A. Certainly in Miami.

17 Q. It got coverage?

18 A. It got coverage.

19 Q. Would you look at Paragraph 4 of your
20 Declaration beginning on Line 3. You refer to topics
21 that would have to be addressed if one were to
22 address local educational needs.

23 During the period we're concerned with,
24 1987 through 1991, did no topics go unreferred to on
25 other Miami television stations?

1 A. I think that they were covered in various
2 ways and in various programs throughout the time
3 period.

4 Q. In the last two lines of Page 1 of your
5 Declaration you refer to a recent bond issue. Does
6 that mean in the calendar year 1993?

7 A. No.

8 Q. '92?

9 A. '91. Actually, the bond -- The bond issue
10 was passed in - I would have to check back. I don't
11 recall, but it was --

12 Q. Are you sure it wasn't in 1992?

13 A. To tell you the truth, I don't recall. The
14 school building program has been ongoing for a couple
15 of years and the bond issue was passed before that.

16 Q. Would it help you if you thought it was on
17 the ballot at the time of a general election?

18 A. No, it wasn't. The Miami-Dade Community
19 College had a referendum at that time.

20 Q. In 1992?

21 A. Yes.

22 Q. But that's not what you're referring to?

23 A. That's not what I'm referring to here. And
24 I reference that because of the time period of that
25 we're referring to in here, within the time period

1 but earlier.

2 MR. MULLIN: I have no further questions.

3 Thank you very much.

4 MS. ROBINSON: No redirect.

5 (Whereupon, the deposition was concluded at
6 or about 4:35 p.m.)

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AND FURTHER DEPONENT SAITH NOT

KATHLEEN SHEA

SWORN TO AND SUBSCRIBED TO before me on this
day of , 1993, in the City of
Fort Lauderdale, Broward County, Florida.

Notary Public - State of Florida

CERTIFICATE OF OATH

STATE OF FLORIDA)
COUNTY OF BROWARD)

I, the undersigned authority, certify that
KATHLEEN SHEA personally appeared before me and
was duly sworn.

WITNESS my hand and official seal this
5th day of October, 1993.

JODY L. WARREN

Notary Public - State of Florida
My Commission Expires: 2/18/95

JODY L. WARREN
MY COMMISSION # CC 080157
EXPIRES February 18, 1995

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CERTIFICATE

STATE OF FLORIDA:


SS.

COUNTY OF BROWARD:

I, JODY L. WARREN, being a Shorthand Reporter
and a Notary Public for the State of Florida at
Large, do hereby certify that I was authorized to and
did stenographically report the foregoing deposition;
and that said transcript is a true record of the
testimony given by the witness.

I further certify that I am not an attorney or
counsel of any of the parties, nor a relative or
employee of any attorney or counsel connected with
the action, nor financially interested in the action.

Dated this 5th day of October, 1993.


JODY L. WARREN

STATE OF FLORIDA)
COUNTY OF BROWARD)

The foregoing certificate was acknowledged
before me this 5th day of October, 1993, by
Jody L. Warren, who is personally known to me.

Notary Public - State of Florida

SEAD 9

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In Re Applications of

MM Docket No. 93-75

TRINITY BROADCASTING OF FLORIDA,
INC.

BRCT-911001LY

For Renewal of License for
Television Station WHFT (TV)
Miami, Florida

GLENDAL E BROADCASTING COMPANY

BPCT-911227KE

633 South Federal Highway
Fort Lauderdale, Florida
September 13, 1993
Monday, 10:10 a.m.

DEPOSITION OF OSVALDO SOTO

Taken before Jody L. Warren, Shorthand
Reporter, Notary Public for the State of Florida at
Large, pursuant to Notice of Taking Deposition filed
in the above cause.

COPY

Federal Communications Commission	
Docket No. 93.75	Exhibit 5.9
Presented by Henry	DEC 3-1933
Disposition	Identified
	Received
	Received
Reporter	DEC 3-1933
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APPEARANCES:

MULLIN, RHYNE, EMMONS & TOPEL
By: EUGENE F. MULLIN, ESQUIRE
on behalf of Trinity.

RONDA R. ROBINSON, ESQUIRE
on behalf of SALAD.

I N D E X

<u>Witness</u>	<u>Direct</u>	<u>Cross</u>
OSVALDO SOTO	3	

EXHIBITS

Trinity Exhibit 15 and 16	3
Trintiy Exhibit 17	9
SALAD Exhibit 4	48

1 (Thereupon, Trinity Exhibit 15 and 16 were
2 marked for identification by the court reporter.)

3 Thereupon:

4 OSVALDO SOTO

5 was called as a witness and, having been first
6 duly sworn, was examined and testified as follows:

7 BY MR. MULLIN:

8 Q. State your name for the record, sir.

9 A. My name is Osvaldo Soto. I'm an attorney
10 with offices at 2151 Lejeune Road, Suite 310, Coral
11 Gables, Florida.

12 Q. And could you tell us briefly about your
13 background while we're waiting for your resume,
14 Mr. Soto?

15 A. I was born in Havana, Cuba in 1929. I'm
16 63. I was a lawyer in Havana. I came to this
17 country in 1960, exactly October 9, 1960.

18 At the beginning in this country I got
19 involved in matters relating to the liberation of
20 Cuba. I was a member of the Cuban revolution counsel
21 that under the protection of the American corp.
22 invaded Cuba,

23 I came back and I worked with the American
24 government for around nine months and I served at
25 that point in time -- I had a family to support and I

1 went to do what I did first in my life when I got out
2 of law school, I did not have it, I was not of age to
3 practice law, so I went to teach business law at the
4 University of Havana, business accountant college.

5 I went to teach at the State of Wyoming one
6 year. From that time I went to the State of Virginia
7 and I was assistant professor at what is called the
8 University System in Virginia and in 1963, I think,
9 '62 or '63 I joined the faculty at Iowa University in
10 Ames, Iowa where I was an assistant and associate and
11 then a full professor, a member of the graduate
12 faculty.

13 In 1973, I decided to come back to Miami.
14 I asked for a sabbatical at the University and I took
15 the Bar in 1975. I was part of a special program of
16 the University of Florida for Cuban lawyers and I was
17 admitted to the Florida Bar the year I finished, '75,
18 and I have been a practicing attorney here since
19 1975.

20 During the last - I have been president of
21 the Cuban American Bar Association. I have been
22 president of the Hispanic Bar Association, which is a
23 national organization. During the last seven or
24 eight years, I've been president of the Spanish
25 American League better known as SALAD.

1 Q. Mr. Soto, I'm going to have marked or it
2 has been marked for identification as Trinity Exhibit
3 15 your deposition notice in this proceeding and as
4 Trinity Exhibit 16 the subpoena that was served upon
5 you attached to which is your Declaration.

6 Concentrating first on Number 15, the
7 deposition notice, did you receive that from your
8 attorney?

9 A. Yes, I did.

10 Q. And looking at 16, the subpoena, did you
11 also receive that from your attorney?

12 A. Yes, I did.

13 Q. Would you look at Exhibit A on the
14 subpoena, third page, and I direct your attention to
15 the references at the top of the page in paragraphs
16 numbered one, two and three, the top of the page
17 concerning documents. Would you read that over to
18 yourself, please?

19 A. Yes. You want me to read it on the record?

20 Q. No. I just want you to read it to yourself
21 because I want to ask you some questions about it.

22 A. Yes.

23 Q. Have you provided to me all of the
24 documents that come within the scope of paragraphs
25 one, two, and three?

1 A. No.

2 Q. You have not?

3 A. No.

4 Q. Would you identify for me then which
5 documents you have not provided that are within the
6 scope of one, two and three?

7 A. None.

8 Q. You say there are none?

9 A. I have not provided you with any of those
10 documents. The only one that is coming that is being
11 faxed at that point is my resume.

12 Q. Perhaps I misunderstood you.

13 My question was, have you provided me all
14 of the documents within the scope of one, two and
15 three?

16 A. No.

17 Q. You have not?

18 A. I have not.

19 Q. What documents do you have that I don't
20 have?

21 A. Well, I have the documents that have been
22 the correspondence and documents that I have reviewed
23 with my attorney.

24 Q. Yes. Let's identify them more precisely.
25 When did you first become aware of the name Trinity

1 Broadcasting?

2 A. It was around three years ago, two years,
3 three years ago. It could change, month more or
4 month less. I think a good guess would be three
5 years ago.

6 Q. Let's go to three years ago then.
7 Beginning three years ago, did you start accumulating
8 documents that relate to Trinity Broadcasting or WHFT
9 or Channel 45?

10 A. During this time I have been in touch with
11 my attorney and I have been accumulating the
12 documents and pleadings. Being an attorney, he has
13 provided me with the pleadings he has filed, et
14 cetera, et cetera.

15 Q. When you say your attorney, you refer to
16 Mr. Honig?

17 A. That's correct.

18 Q. Any other person you're referring to as
19 your attorney?

20 A. No, no. I'm referring to Mr. Honig.

21 If you would excuse me, this is not the
22 first time I work with Mr. Honig on matters
23 pertaining to TV or radio stations. Mr. Honig has
24 been an attorney for the Spanish American League
25 Against Discrimination three or four times.

1 Q. The only documents I'm interested in are
2 those that refer to Trinity or WHFT or Channel 45.

3 Now, some of the documents to which you
4 refer are pleadings that have been filed at the
5 Federal Communications Commission and are a matter of
6 public record, is that correct?

7 A. Yes.

8 Q. Let us exclude those.

9 Are there other documents that you have not
10 provided to me other than those that have been filed
11 at the FCC and are a matter of public record?

12 A. Yes. There have been previous
13 communication between my attorney and myself.

14 Q. And where are those documents? Why haven't
15 you provided those to me?

16 A. Because I understand they're protected
17 under the client/attorney privilege. They're
18 confidential and I do not have to make those
19 available.

20 Q. You're aware, Mr. Soto, that we subpoenaed
21 the documents, that your attorney interposed an
22 objection based upon work product privilege and that
23 by formal order of the administrative law judge that
24 objection was overruled. You are aware of that?

25 A. It is my understanding that the objection

1 that was overruled had to do with the witnesses. I
2 am the president of the organization that has filed
3 this lawsuit and as such, I think I am not the normal
4 witness. I am a party to this lawsuit.

5 Q. Let's cut it short. I will ask you now,
6 will you provide to me all of the documents that are
7 described by paragraphs one, two and three in that
8 subpoena or that are within the scope of paragraphs
9 one, two and three that are now in your position?

10 A. I will provide them if the court such
11 orders.

12 Q. And I suggest to you that the court has, in
13 fact, ordered that they be produced and I can show
14 you the order or do you need to see the order?

15 A. I have been advised by my attorney as of
16 this point that that has not been the case.

17 MR. MULLIN: Could I have this marked as
18 Trinity 17?

19 (Thereupon, the above-referred to document
20 was marked as Trinity Exhibit 17 for
21 identification by the court reporter.)

22 Q. (By Mr. Mullin) Mr. Soto. I show you a
23 two page document that has been marked by the
24 reporter as Trinity 17. It's a memorandum opinion
25 and order in this proceeding issued on September 1,

1 1993, released on September 2, 1993 with FCC
2 identification number FCC 93M - 564 signed by Joseph
3 Chachkin, administrative law judge, and I will ask
4 you if you have previously read that order?

5 A. I don't remember reading this order.

6 Q. Would you take the time to read it now,
7 sir? Read it to yourself.

8 A. I have read it.

9 Q. Now that you have remember the order, sir,
10 I ask you again if you will now provide to me all of
11 the documents responsive to paragraphs one, two and
12 three in the subpoena duces tecum?

13 A. If I understand correctly, in Number 4 of
14 the order signed by the judge it says, however, any
15 such protection was waived by SALAD's distribution of
16 the document to persons having no connection with
17 SALAD.

18 I understand and I will discuss it with my
19 attorney and if my attorney says that I am supposed
20 to be - I would not be included in this exception, I
21 would provide the documents, but it is my
22 understanding, again based on what I am reading here,
23 that SALAD or any member of the SALAD, in this case I
24 am the chairman of SALAD, I am not included in the
25 order of the judge.

1 MS. ROBINSON: For purposes of the
2 clarification, perhaps Mr. Soto is not aware
3 that such documents - that some documents have
4 been disseminated. Perhaps if he's advised of
5 that --

6 MR. MULLIN: I'm happy to tell Mr. Soto
7 what documents have been provided to me and they
8 have been provided by Mr. Honig.

9 Q. (By Mr. Mullin) The documents that have
10 been provided to me consist of the following, a
11 letter which we have identified in this proceeding as
12 the Colleagues and Friends letter which I believe has
13 already been identified as Trinity Exhibit 5.

14 MS. ROBINSON: Could the witness see that?
15 I may not have an extra copy.

16 A. To --

17 Q. Just a minute, Mr. Soto. We want to be
18 precise for this. We're setting the stage for a call
19 to the judge in Washington who, if he can be reached
20 on the telephone, is prepared to rule.

21 I show you what has been previously marked
22 here as Trinity Exhibit 5 and I tell you that has
23 been provided and I'll also tell you that we have
24 been provided a series of documents each of which is
25 headed with a caption or a cover page Illustrative

1 Programming on Channel 45 dealing with a variety of
2 topics. Miss Robinson will show you those.

3 MS. ROBINSON: They're all based upon the
4 subject matter.

5 Q. Now, that is all we've been provided,
6 Mr. Soto. We have not been provided with any other
7 correspondence. We have not been provided with any
8 notes that you may have made or documents that refer
9 to Channel 45 or WHFT or that reflect any
10 communications between you and any other person
11 concerning Channel 45 or any documents that otherwise
12 refer to Channel 45 and I gather there are such
13 documents other than those that have been provided to
14 us, isn't that right?

15 A. No.

16 Q. No other documents?

17 A. All the documents are the documents that
18 you have shown me and the pleadings that I told you
19 that I have received from time to time provided by
20 Mr. Honig, but any other document between Mr. Honig
21 and myself regarding Trinity, I don't have it.

22 Q. You don't have any correspondence with
23 Mr. Honig regarding Trinity?

24 A. There might be one or two letters. I don't
25 remember to be honest with you. I would have to look

1 into my file and determine, but as far as I remember,
2 the only documents that I have seen regarding Trinity
3 besides my conversation with Mr. Honig are those that
4 have now been shown to me by you and by my attorney
5 present here.

6 Q. You've never taken any notes regarding
7 Channel 45 programming?

8 A. I have seen many times Channel 45 programs.
9 I haven't taken notes of the times that I have seen
10 the programs.

11 Q. You have no correspondence or notes
12 regarding Trinity programming with any of the
13 following persons, if you'll permit me a multiple
14 question, I'm simply going to read down the list of
15 SALAD witnesses, Dr. Bradford Brown, Andrew Cherry,
16 Charles Cherry, II, Sherwood Dubose, Donald Marvin
17 Jones, Johnny McMillian, Carlton Moore, Dr. Kathleen
18 Shea, Rodney Thaxton or William Thompson, you have no
19 notes or correspondence or written materials relating
20 to any of those persons?

21 A. No.

22 Q. None whatsoever?

23 A. None whatsoever.

24 Q. You've never done a calculation of the
25 amount of programming in any particular category by